

5 FAH-4 H-700 PROCESSING OF REQUESTS FOR INFORMATION FROM CONGRESS, AND GENERAL ACCOUNTING OFFICE (GAO)

5 FAH-4 H-710 CONGRESSIONAL AND GAO REQUESTS

5 FAH-4 H-711 GENERAL PROCEDURES

(TL:RMH-1; 10-30-95)

The following procedures are intended to see that Congressional, and GAO requests for Department information are dealt with in the most forthcoming, thorough, expeditious and consistent way possible, taking into account resource constraints and standard Executive Branch prerogatives:

(1) Requests from GAO, a Congressional Committee or Subcommittee chair on a subject within its jurisdiction will be processed under subsection (d) of the FOIA, as described in this section, and any special guidelines that may be issued in connection with the request. It is the Department's policy to respond to Congressional and GAO requests promptly. These procedures are not intended to interfere with the present responsibility of the action office to see that the final response is the result of full coordination, consultation and clearance with all concerned offices.

(2) The action office must also see that a complete record of the released material (either copies of the documents or a list identifying the documents and storage location) is maintained.

(3) Transmittal letters accompanying documents that are released will state clearly any conditions under which material is being provided. In cases where classified material is being provided to the Congress or the GAO, the letter shall include a statement to the effect that, pursuant to Executive Order, the dissemination of classified information outside the executive branch is prohibited except under conditions that ensure that the information will be given protection equivalent to that afforded within the Executive Branch. Key safeguards are to be specified in the transmittal letter, including storage of the classified material in secure facilities and limitation on access to individuals with requisite security clearances and a need to know the information. The transmittal letter shall also state that classified may not be publicly disclosed

and that the material (including any copies thereof) must be returned to the Department or destroyed after the Congress or GAO has completed its work, unless otherwise agreed by the Department.

(4) Any Department office or bureau receiving requests for Office of Inspector General documents, reports, or information shall refer such requests to the Inspector General for response. Directly forward any such request to:

Office of the Inspector General
Room 6817
Department of State
Washington, D.C. 20520-6817

5 FAH-4 H-712 CONGRESSIONAL REQUESTS

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a. Recipients of requests from either House of Congress or a Congressional committee or subcommittee, for specific Department documents or classes of documents, on a subject within its jurisdiction, are to immediately send a copy of the request to S/S, A/IM/IS/FPC and the H Legislative Management Officer. Oral requests for documents from a member of Congress are to be reduced to writing by the Department employee receiving the request to avoid confusion about scope. Recipients of oral requests from Congressional staff members, however, are to ask that the requests be made in writing in a letter signed by the interested member of Congress. Correspondence addressed to the Office of Inspector General is not to be opened or processed by any other bureau and is to be forwarded directly to the Office of Inspector General for processing.

b. Upon receipt by S/S of the request, S/S will determine which bureau has lead responsibility and will task that bureau to see that the request is answered in a timely fashion. The action bureau will coordinate the document search, review the documents, make recommendations concerning release of documents, prepare the documents for release and draft a fully cleared action memorandum to the appropriate Under Secretary for decision on the final response. All such memos must be cleared by H, L, A/IM/IS/FPC, and other interested bureaus. The memorandum is to include a responsive letter for signature by the Assistant Secretary for Legislative Affairs (H). Congressional requests for documents are to generally be responded to within 15 working days, unless S/S and H agree on a longer period. In cases where a reply cannot be completed within this time frame, bureaus are to prepare an interim reply to be sent under the signature of the Assistant Secretary for Legislative Affairs.

5 FAH-4 H-713 GAO REQUESTS

(TL:RMH-1; 10-30-95)

a. The Budget and Accounting Act of 1921 (31 U.S.C. 716) provides that "Each agency shall give the Comptroller General information the Comptroller General requires about the duties, powers, activities, organization, and financial transactions of the agency."

b. Procedures for processing GAO requests are similar to those for handling Congressional requests, with a few exceptions. The receiving bureau is to inform S/S, A/IM/IS/FPC and the Department's GAO Liaison Officer (FMP, Room 7427, (202)647-8170) of the purpose, nature, and scope of the GAO request. In order to facilitate a rapid response to GAO and to avoid disruption of the audit process, the request can be relayed by phone or via e-mail to S/S.

c. Upon receipt of this notification, S/S will determine whether the nature of the GAO request is likely to require seventh floor review or decision. If S/S determines that there are potential seventh floor interests involved, more information on the request and the views of appropriate bureaus on releasability will be requested. If based on this review it is determined that action by a principal is appropriate, S/S will issue a tasking requiring an action memo be prepared for a response to GAO. If seventh floor coordination is not necessary, S/S will inform the bureau action officer to proceed with action on that particular audit case without further referral to S/S. In either case, the documents will generally be disclosed to GAO under cover of a letter from a Deputy Assistant Secretary in the action bureau, with clearances from L, the GAO Liaison Officer (FMP), A/IM/IS/FPC, and other interested bureaus. A copy of the signed letter is to be sent to all clearing offices. (If only a small number of unclassified and non-sensitive documents are involved, they could be given to the GAO in advance of the letter confirming which documents were transmitted. A letter is essential, however, in all cases, for purposes of record keeping.)

d. GAO requests for documents are to generally be responded to within 15 working days. In cases where this is not possible because of the complexity or scope of the request or for other reasons, the action bureau is to prepare an interim reply to GAO with a copy sent to the GAO Liaison Officer (FMP).

e. Refer questions or problems concerning requests of GAO personnel, physically located in the Department, to the GAO Liaison Officer in FMP.

5 FAH-4 H-713.1 GAO Requests—Restrictions

(TL:RMH-1; 10-30-95)

The Department provides GAO officials with requested documents subject to the following restrictions:

(1) The document disclosure would seriously impair relations between the United States and other countries in the conduct of foreign affairs, or otherwise prejudice the best interests of the United States;

(2) It is a document directed to the President, the National Security Council, or a similar White House board;

(3) It is a document relating to formulation of sensitive substantive policy (as distinguished from a statement of or implementation of policy); and

(4) It is a document generally restricted under 5 FAM , such as records relating to citizenship of individuals, any inspection reports prepared by the Office of Inspector General, visa records, intelligence and investigative records. The Privacy Act exempts GAO representatives, in the course of the performance of their duties, from otherwise applicable restrictions on disclosure of personal information in a system of records, see (7) below. (See also 5 U.S.C. 552a(b)(10)).

(5) It is sensitive policy papers from another government, that were given in confidence, to the Department. The originating government must approve making these papers available to GAO representatives. These governments can only be contacted through appropriate Department diplomatic channels.

(6) It is a classified document originating from another Federal department or agency. It is preferred that the Department refer GAO to the applicable agency for access.

(7) In accordance with the Presidential Directive of March 13, 1948 (3 CFR, 1947 Supp.), "all reports, records, and files relative to the loyalty of employees or prospective employees shall be maintained in confidence" and GAO representatives are not allowed access to them without the approval of the President.

(8) GAO representatives may audit accounting records and other fiscal documents in the Department and at Foreign Service posts that pertain to special expenditures charged against authorizations in accordance with 31 U.S.C. 3524.

(9) Restrictions regarding Department documents are applicable to copies in the custody of officials or other agencies of the executive branch of the Government. Joint messages are reviewed carefully in applying these restrictions. If there are any doubts about access to these documents, obtain the decision of the appropriate ambassador or Bureau head.

(10) When a GAO representative requests access to documents in the custody of the Department, the chief of the bureau or office or a designee confirms the representative's security clearance and reviews the documents to determine if GAO may have access.

5 FAH-4 H-713.2 GAO Requests—Granting Access At Posts

(TL:RMH-1; 10-30-95)

a. When a GAO representative requests access to Department documents in the custody of a Foreign Service post, the Ambassador, or designee confirms the representative's security clearance, reviews the documents, and determines if the documents may be provided. The Ambassador or designee communicates any concerns about how the information will be used. The post may use secure telephone or secure fax to consult with applicable Washington regional bureaus and bureau legal advisors.

b. In most cases GAO discusses their findings with, or requests formal/informal comments from, the Department. When an inquiry is being made at request of a Congressional committee, GAO may not be at liberty or have the necessary time to give the Department an opportunity to review or discuss the draft report. Accordingly, determine accessibility on a strict need-to-know basis.

5 FAH-4 H-714 DOCUMENT RELEASE QUESTIONS

(TL:RMH-1; 10-30-95)

The Department is committed to providing Congress, and the GAO, with the information it needs to perform their responsibilities. Releases of information must take account of the Executive Branch's legitimate interests in protecting national security, preserving the candor of its deliberative process, and preventing compromise of law enforcement efforts. Releases to Congress will depend on whether the request is made by a Committee or Subcommittee chair having jurisdiction over the matter or by an individual member of Congress. Releases must also comply with applicable law,

including the FOIA and Privacy Act, which may restrict disclosure of certain information. Bureaus are to consult directly with A/IM/IS/FPC and with L and H officers serving the action office for guidelines on what documents the Department may or may not release. All decisions to release documents must be properly coordinated.

5 FAH-4 H-715 THROUGH H-719 UNASSIGNED